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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke Probation
12 Against:

Case No. 2001-198

13 **BRIAN ANDREW REVHEIM**
220 Jefferson Street
14 Napa, CA 94559

DEFAULT DECISION
AND ORDER

15 Registered Nurse License No. 526946

[Gov. Code, §11520]

16 Respondent.
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19 **FINDINGS OF FACT**

20 1. On or about July 23, 2007, Complainant Ruth Ann Terry, M.P.H, R.N, in
21 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs, filed Petition to Revoke Probation No. 2001-198 against Brian Andrew
23 Revheim (Respondent) before the Board of Registered Nursing.

24 2. On or about September 27, 1996, the Board of Registered Nursing (Board)
25 issued Registered Nurse License No. 526946 to Respondent. The Registered Nurse License
26 expired on February 28, 2006, and has not been renewed.

27 3. On or about September 26, 2007, Anh Ho, an employee of the Department
28 of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke Probation

1 No. 2001-198, Statement to Respondent, Notice of Defense, Request for Discovery, and
2 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
3 with the Board, which was and is 220 Jefferson Street, Napa, CA 94559. A copy of the Petition
4 to Revoke Probation, the related documents, and Declaration of Service are attached as exhibit
5 A, and are incorporated herein by reference.

6 4. Service of the Petition to Revoke Probation was effective as a matter of
7 law under the provisions of Government Code section 11505, subdivision (c).

8 5. Business and Professions Code section 118 states, in pertinent part:

9 "(b) The suspension, expiration, or forfeiture by operation of law of a license
10 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
11 board or by order of a court of law, or its surrender without the written consent of the board, shall
12 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
13 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
14 any ground provided by law or to enter an order suspending or revoking the license or otherwise
15 taking disciplinary action against the license on any such ground."

16 6. Government Code section 11506 states, in pertinent part:

17 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
19 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
20 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

21 7. Respondent failed to file a Notice of Defense within 15 days after service
22 upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the
23 merits of Petition to Revoke Probation No. 2001-198.

24 8. California Government Code section 11520 states, in pertinent part:

25 "(a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions or
27 upon other evidence and affidavits may be used as evidence without any notice to
28 respondent."

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibit A, finds that the allegations in Petition to Revoke Probation No. 2001-198 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Brian Andrew Revheim has subjected his Registered Nurse License No. 526946 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations of Respondent's probation alleged in the Petition to Revoke Probation:

- a. Condition 3- Failure to Comply with Board's Probation Program;
- b. Condition 15 - Failure to Complete Mental Health Examination;
- c. Condition 15A- Failure to Participate in Treatment Program;
- d. Condition 15C –Failure to Submit to Required Tests and Samples; and
- e. Condition 15D–Failure to Attend Therapy or Counseling.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 526946, heretofore issued to Respondent Brian Andrew Revheim, is revoked.

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1 Pursuant to Government Code section 11520, subdivision (c), Respondent may
2 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
3 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
4 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
5 statute.

6 This Decision shall become effective on December 26, 2007.

7 It is so ORDERED November 26, 2007

8 *LaTranene W Tate*

9
10 FOR THE BOARD OF REGISTERED NURSING
11 DEPARTMENT OF CONSUMER AFFAIRS

12 DOJ docket number: SF2007401828

13 Attachments:

14 Exhibit A: Petition to Revoke Probation No. 2001-198, Related Documents, and Declaration
15 of Service
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Exhibit A

Petition to Revoke Probation No. 2001-198,
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 ASPASIA A. PAPA VASSILIOU, State Bar No. 196360
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2001-198

12 **BRIAN ANDREW REVHEIM**
13 220 Jefferson Street
Napa, CA 94559

**PETITION TO REVOKE
PROBATION**

14 Registered Nurse License No. 526946

15 Respondent.

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17 Complainant alleges:

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19 PARTIES

20 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Petition to Revoke
21 Probation solely in her official capacity as the Executive Officer of the Board of Registered
22 Nursing, Department of Consumer Affairs.

23 2. On or about September 27, 1996, the Board of Registered Nursing issued
24 Registered Nurse License Number 526946 to Brian Andrew Revheim (Respondent). The
25 Registered Nurse License expired on February 28, 2006, and has not been renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Brian
27 Andrew Revheim," Case No. 2001-198, the Board of Registered Nursing, issued a decision,
28 effective July 27, 2003, in which Respondent's Registered Nurse License was revoked.

1 However, the revocation was stayed and Respondent's license was placed on probation for a
2 period of five (5) years with certain terms and conditions. A copy of that decision is attached as
3 Exhibit A and is incorporated by reference.

4
5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Board of
7 Registered Nursing (Board), Department of Consumer Affairs.

8
9 FIRST CAUSE TO REVOKE PROBATION

10 (Failure to Comply with Terms and Conditions of Probation)

11 5. At all times after the effective date of Respondent's probation, Condition 3
12 stated:

13 **Comply with the Board's Probation Program.** Respondent shall fully comply with the
14 conditions of the Probation Program established by the Board and cooperate with
15 representatives of the Board in its monitoring and investigation of the Respondent's
16 compliance with the Board's Probation Program. Respondent shall inform the Board in
writing within no more than 15 days of any address change and shall at all times maintain
an active, current license status with the Board, including during any period of
suspension.

17 Upon successful completion of probation, Respondent's license shall be fully
18 restored.

19 6. Respondent's probation is subject to revocation because he failed to
20 comply with Probation Condition 3, referenced above, in that Respondent failed to maintain a
21 current and active license by letting his license lapse on February 28, 2006, and because he
22 failed to comply with Probation Conditions 15, 15A, 15C, and 15D, as set forth in paragraphs 7
23 through 14, below, in that he failed to complete a mental health examination, failed to
24 participate in a drug treatment program, failed to submit to drug testing, and failed to attend
25 therapy or counseling.

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1 **Participate in Treatment/Rehabilitation Program for Chemical Dependence.**
2 Respondent, at his expense, shall successfully complete during the probationary
3 period or shall have successfully completed prior to commencement of probation
4 a Board-approved treatment/rehabilitation program of at least six months duration.
5 As required, reports shall be submitted by the program on forms provided by the
6 Board. If Respondent has not completed a Board-approved
7 treatment/rehabilitation program prior to commencement of probation,
8 Respondent, within 45 days from the effective date of the decision, shall be
9 enrolled in a program. If a program is not successfully completed within the first
10 nine months of probation, the Board shall consider Respondent in violation of
11 probation.

12
13 Based on Board recommendation, each week Respondent shall be required to
14 attend at least one, but no more than five 12-step recovery meetings or equivalent
15 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support
16 group as approved and directed by the Board. If a nurse support group is not
17 available, an additional 12-step meeting or equivalent shall be added. Respondent
18 shall submit dated and signed documentation confirming such attendance to the
19 Board during the entire period of probation. Respondent shall continue with the
20 recovery plan recommended by the treatment/rehabilitation program or a licensed
21 mental health examiner and/or other ongoing recovery groups.

22
23 10. Respondent's probation is subject to revocation because he failed to
24 comply with Probation Condition 15A, referenced above, in that he failed to participate in a
25 treatment program by failing to provide evidence of completion of a six month chemical
26 dependency program. Additionally, Respondent failed to provide evidence of attending the
27 required Nurse Support Group and AA or NA meetings each week.

28 FOURTH CAUSE TO REVOKE PROBATION

(Failure to Submit to Required Tests and Samples)

11. At all times after the effective date of Respondent's probation, Condition
15C stated:

Submit to Tests and Samples. Respondent, at his expense, shall participate in a
random, biological fluid testing or a drug screening program which the Board
approves. The length of time and frequency will be subject to approval by the
Board. Respondent is responsible for keeping the Board informed of
Respondent's current telephone number at all times. Respondent shall also ensure
that messages may be left at the telephone number when he is not available and
ensure that reports are submitted directly by the testing agency to the Board, as
directed. Any confirmed positive finding shall be reported immediately to the
Board by the program and Respondent shall be considered in violation of
probation.

In addition, Respondent, at any time during the period of probation, shall fully

1 cooperate with the Board or any of its representatives, and shall, when requested,
2 submit to such tests and samples as the Board or its representatives may require
3 for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
4 controlled substances. If Respondent has a positive drug screen for any substance
5 not legally authorized and not reported to the coordinating physician, nurse
6 practitioner, or physician assistant, and the Board files a petition to revoke
7 probation or an accusation, the Board may suspend Respondent from practice
8 pending the final decision on the petition to revoke probation or the accusation.
9 This period of suspension will not apply to the reduction of this probationary time
10 period.

11 If Respondent fails to participate in a random, biological fluid testing or drug
12 screening program within the specified time frame, Respondent shall immediately
13 cease practice and shall not resume practice until notified by the Board. After
14 taking into account documented evidence of mitigation, if the Board files a
15 petition to revoke probation or an accusation, the Board may suspend Respondent
16 from practice pending the final decision on the petition to revoke probation or the
17 accusation. This period of suspension will not apply to the reduction of this
18 probationary time period.

19 12. Respondent's probation is subject to revocation because he failed to
20 comply with Probation Condition 15C, referenced above, in that he failed to participate in the
21 required random drug testing.

22 FIFTH CAUSE TO REVOKE PROBATION

23 (Failure to Attend Therapy or Counseling)

24 13. At all times after the effective date of Respondent's probation, Condition
25 15D stated:

26 **Therapy or Counseling Program.** Respondent, at his expense, shall participate
27 in an on-going counseling program until such time as the Board releases him from
28 this requirement and only upon the recommendation of the counselor. Written
progress reports from the counselor will be required at various intervals.

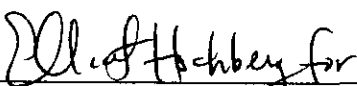
14. Respondent's probation is subject to revocation because he failed to
comply with Probation Condition 15D, referenced above, in that Respondent failed to provide
evidence of attending therapy or counseling.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein
alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1 1. Revoking the probation that was granted by the Board of Registered
2 Nursing in Case No. 2001-198 and imposing the disciplinary order that was stayed thereby
3 revoking Registered Nurse License No. 526946 issued to Brian Andrew Revheim;
4 2. Revoking or suspending Registered Nurse License No. 526946, issued to
5 Brian Andrew Revheim;
6 3. Taking such other and further action as deemed necessary and proper.
7

8 DATED: 7/23/07
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10 
11 RUTH ANN TERRY, M.P.H., R.N
12 Executive Officer
13 Board of Registered Nursing
14 State of California
15 Complainant

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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2001-198

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

BRIAN ANDREW REVHEIM
220 Jefferson Street
Napa, CA 94559

Registered Nurse License No. 526946

Respondent.

Case No. 2001-198

OAH No. N2001120215

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 27, 2003.

It is so ORDERED June 27, 2003.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Amended Accusation
Against:

BRIAN ANDREW REVHEIM
220 Jefferson Street
Napa, CA 94559

Registered Nurse License No. 526946

Respondent.

Case No. 2001-198

OAH No. N2001120215

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
the Board of Registered Nursing. She brought this action solely in her official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by
Hannah Hirsch Rose, Deputy Attorney General.

2. Respondent Brian Andrew Revheim (Respondent) is represented in this
proceeding by attorney Robert F. Hahn, Esq., whose address is Law Offices of Gould & Hahn,
5801 Christie Avenue, Suite 385, Emeryville, California 94608.

3. On or about September 27, 1996, the Board of Registered Nursing issued
Registered Nurse License No. 526946 to Brian Andrew Revheim (Respondent). The License

1 was in full force and effect at all times relevant to the charges brought in Amended Accusation
2 No. 2001-198 and will expire on February 28, 2003, unless renewed.

3 JURISDICTION

4 4. Amended Accusation No. 2001-198 was filed before the Board of
5 Registered Nursing (Board), Department of Consumer Affairs,, and is currently pending against
6 Respondent. The Amended Accusation and all other statutorily required documents were
7 properly served on Respondent on September 4, 2001. Respondent timely filed his Notice of
8 Defense. A copy of Amended Accusation No. 2001-198 is attached as Exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in Amended Accusation No. 2001-198. Respondent has
13 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
14 Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Amended Accusation; the right to be
17 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
18 against him; the right to present evidence and to testify on his own behalf; the right to the
19 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
20 the right to reconsideration and court review of an adverse decision; and all other rights accorded
21 by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent admits as follows:

26 a. That in 1998 on at least four occasions he reported for work as a registered
27 nurse with the smell of alcohol on his breath in violation of Business and Professions
28 Code section 2761(a). Respondent does not admit that he was impaired and there is no

1 finding to that effect.

2 b. Admits the allegations of paragraphs 11(a), (b), (d) and (f) of the Amended
3 Accusation. There is no finding with respect to paragraphs 11(c) and (e). It is considered
4 by the Board that respondent's later-diagnosed seizure disorder may have contributed to
5 the violations set forth in paragraph 11 of the Amended Accusation.

6 9. Respondent agrees that his Registered Nurse License is subject to
7 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
8 Disciplinary Order below.

9 RESERVATION

10 10. The admissions made by Respondent herein are only for the purposes of
11 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
12 professional licensing agency is involved, and shall not be admissible in any other criminal or
13 civil proceeding.

14 CONTINGENCY

15 11. This stipulation shall be subject to approval by the Board of Registered
16 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
17 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
18 and settlement, without notice to or participation by Respondent or his counsel. By signing the
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
21 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
22 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 12. The parties understand and agree that facsimile copies of this Stipulated
26 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
27 force and effect as the originals.

28 13. In consideration of the foregoing admissions and stipulations, the parties

1 agree that the Board may, without further notice or formal proceeding, issue and enter the
2 following Disciplinary Order:

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that Registered Nurse License No. 526946 issued to
5 Respondent Brian Andrew Revheim is revoked. However, the revocation is stayed and
6 Respondent is placed on probation for five (5) years on the following terms and conditions.

7 1. **Actual Suspension of License.** Respondent is suspended from the
8 practice of registered nursing for 12 months beginning the effective date of this decision.

9 **Severability Clause.** Each term and condition of probation contained herein is a
10 separate and distinct term and condition. If any term and condition of this Order, or any
11 application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of
12 this Order, and all other applications thereof, shall not be affected. Each term and condition of
13 this Order shall separately be valid and enforceable to the fullest extent permitted by law.

14 2. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
15 A full and detailed account of any and all violations of law shall be reported by Respondent to
16 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
17 compliance with this term, Respondent shall submit completed fingerprint cards and fingerprint
18 fees within 45 days of the effective date of the decision, unless previously submitted as part of
19 the licensure application process. Respondent shall submit a recent 2" x 2" photograph of
20 himself within 45 days of the effective date of the final decision.

21 3. **Comply with Probation Program.** Respondent shall fully comply with
22 the terms and conditions of the Probation Program established by the Board and cooperate with
23 representatives of the Board in its monitoring and investigation of Respondent's compliance with
24 the Probation Program. Respondent shall inform the Board in writing within no more than 15
25 days of any address change and shall at all times maintain an active, current license status with
26 the Board, including during any period of suspension.

27 4. **Report in Person.** Respondent, during the period of probation, shall appear
28 in person at interviews/meetings as directed by the Board or its designated representatives.

1 5. **Residency or Practice Outside of State.** Periods of residency or practice
2 as a registered nurse outside of California will not apply to the reduction of this probationary
3 term. Respondent must provide written notice to the Board within 15 days of any change of
4 residency or practice outside the state.

5 6. **Submit Written Reports.** Respondent, during the period of probation,
6 shall submit or cause to be submitted such written reports/declarations and verification of actions
7 under penalty of perjury, as required by the Board. These reports/declarations shall contain
8 statements relative to Respondent's compliance with all the terms and conditions of the Board's
9 Probation Program. Respondent shall immediately execute all release of information forms as
10 may be required by the Board or its representatives.

11 **Provide Decision** - Respondent shall provide a copy of this decision to the
12 nursing regulatory agency in every state and territory in which he has a registered nurse license.

13 7. **Function as a Registered Nurse.** Respondent, during the period of
14 probation, shall engage in the practice of registered nursing in California for a minimum of 24
15 hours per week for 6 consecutive months or as determined by the Board.

16 For purposes of compliance with the section, "engage in the practice of registered
17 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
18 work in any non-direct patient care position that requires licensure as a registered nurse.

19 The Board may require that advanced practice nurses engage in advanced practice
20 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
21 Board.

22 If Respondent has not complied with this condition during the probationary term,
23 and Respondent has presented sufficient documentation of his good faith efforts to comply with
24 this condition, and if no other conditions have been violated, the Board, in its discretion, may
25 grant an extension of Respondent's probation period up to one year without further hearing in
26 order to comply with this condition.

27 8. **Employment Approval and Reporting Requirements.** Respondent
28 shall obtain prior approval from the Board before commencing any employment, paid or

1 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
2 performance evaluations and other employment related reports as a registered nurse upon request
3 of the Board.

4 Respondent shall provide a copy of this decision to his employer and immediate
5 supervisor prior to commencement of any nursing or other health care related employment.

6 Respondent shall notify the Board in writing within seventy-two (72) hours after
7 he obtains any nursing or other health care related employment, when such employment is not as
8 a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours
9 after he is terminated from any registered nursing, other nursing, or other health care related
10 employment with a full explanation of the circumstances surrounding the termination.

11 9. **Supervision.** Respondent shall obtain prior approval from the Board
12 regarding Respondent's level of supervision and/or collaboration before commencing any
13 employment as a registered nurse.

14 Respondent shall practice only under the direct supervision of a registered nurse
15 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
16 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
17 are approved.

18 Respondent's level of supervision and/or collaboration may include, but is not
19 limited to the following:

20 (a) Maximum - The individual providing supervision and/or collaboration is
21 present in the patient care area or in any other work setting at all times.

22 (b) Moderate - The individual providing supervision and/or collaboration is in
23 the patient care unit or in any other work setting at least half the hours Respondent works.

24 (c) Minimum - The individual providing supervision and/or collaboration has
25 person-to-person communication with Respondent at least twice during each shift worked.

26 (d) Home Health Care - If Respondent is approved to work in the home health
27 care setting, the individual providing supervision and/or collaboration shall have person-to-
28 person communication with Respondent as required by the Board each work day. Respondent

1 shall maintain telephone or other telecommunication contact with the individual providing
2 supervision and/or collaboration as required by the Board during each work day. The individual
3 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
4 site visits to patients' homes visited by Respondent with or without Respondent present.

5 10. **Employment Limitations.** Respondent shall not work for a nurse's
6 registry, in any private duty position as a registered nurse, a temporary nurse placement agency,
7 or for an in-house nursing pool.

8 Respondent shall not work for a licensed home health agency as a visiting nurse
9 unless the registered nursing supervision and other protections for home visits have been
10 approved by the Board. Respondent shall not work in any other registered nursing occupation
11 where home visits are required.

12 Respondent shall not work in any health care setting as a supervisor of registered
13 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
14 nurses and/or unlicensed assistive personnel on a case-by-case basis.

15 Respondent shall not work as a faculty member in an approved school of nursing
16 or as an instructor in a Board approved continuing education program.

17 Respondent shall work only on a regularly assigned, identified and predetermined
18 worksite(s) and shall not work in a float capacity.

19 If Respondent is working or intends to work in excess of 40 hours per week, the
20 Board may request documentation to determine whether there should be restrictions on the hours
21 of work.

22 11. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
23 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
24 than six months prior to the end of his probationary term;

25 Respondent shall obtain prior approval from the Board before enrolling in the
26 course(s). Respondent shall submit to the Board the original transcripts or certificates of
27 completion for the above required course(s). The Board shall return the original documents to
28 Respondent after photocopying them for its records.

1 12. **Cost Recovery.** Respondent shall pay to the Board costs associated with
2 its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the
3 amount of \$3000.00. Cost recovery shall be deferred until two years after the effective date of
4 the decision. Respondent shall be permitted thereafter to pay these costs in a payment plan
5 approved by the Board, with payments to be completed no later than three months prior to the
6 end of the probation term.

7 13. **Violation of Probation.** If Respondent violates the conditions of his
8 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
9 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
10 license.

11 If during the period of probation, an accusation or petition to revoke probation has
12 been filed against Respondent's license or the Attorney General's Office has been requested to
13 prepare an accusation or petition to revoke probation against Respondent's license, the
14 probationary period shall automatically be extended and shall not expire until the accusation or
15 petition has been acted upon by the Board. Upon successful completion of probation,
16 Respondent's license will be fully restored.

17 14. **Physical Examination.** Within a reasonable time approved by the Board,
18 respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician
19 assistant, who is approved by the Board before the assessment is performed, submit an
20 assessment of the respondent's physical condition and capability to perform the duties of a
21 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
22 medically determined, a recommended treatment program will be instituted and followed by the
23 respondent with the physician, nurse practitioner, or physician assistant providing written reports
24 on forms provided by the Board.

25 If respondent is determined to be unable to practice safely as a registered nurse,
26 the licensed physician, nurse practitioner, or physician assistant making this determination shall
27 immediately notify both the Probation Program and respondent by telephone. Respondent may
28 not resume practice until notified in writing by the Probation Monitor that he may engage in the

1 practice of registered nursing. During this period of suspension, respondent shall not engage in
2 any practice for which a license issued by the Board is required, until the Probation Monitor has
3 notified respondent that a medical determination permits respondent to resume practice.

4 15. **Mental Health Exam/Substance Abuse Assessment.** Respondent
5 shall, within a reasonable time approved by the Board, have a mental health examination
6 including psychological testing as appropriate to determine his capability to perform the duties of
7 a registered nurse. The examination must be performed by a licensed psychiatrist, psychologist
8 or other mental health practitioner, approved by the Board, who has experience in the diagnosis
9 and treatment of chemical dependency and alcoholism. The examiner must submit a narrative
10 report of the examination. All costs are the responsibility of the respondent.

11 If respondent is determined to be unable to practice safely as a registered nurse,
12 the licensed mental health care practitioner making this determination shall immediately notify
13 both the Probation Program and respondent of this determination by telephone. Respondent may
14 not resume practice until notified in writing by the Probation Monitor that he may engage in the
15 practice of registered nursing. During this period of suspension, respondent shall not engage in
16 any practice for which a license issued by the Board is required, until the Probation Monitor has
17 notified respondent that a mental health determination permits respondent to resume practice.

18 If the examiner discovers that the respondent is or has been dependent upon drugs
19 or alcohol or has had problems with drugs or alcohol (i.e., drug dependence in remission or
20 alcohol dependence in remission), then the respondent must further comply with the following
21 additional terms and conditions of probation.

22 (A). **Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

23 Respondent, at his expense, shall successfully complete during the probationary
24 period or shall have successfully completed prior to commencement of probation a
25 Board-approved treatment/rehabilitation program of at least six months. As required,
26 reports shall be submitted by the program on forms provided by the Board. If respondent
27 has not completed a Board-approved treatment/rehabilitation program prior to
28 commencement of probation, respondent, within a reasonable time approved by the

1 Board, shall be enrolled in a program. If a program is not successfully completed within
2 a reasonable time approved by the Board, the Board shall consider respondent in violation
3 of probation.

4 Based on Probation Program recommendation, each week respondent shall be
5 required to attend at least one, but no more than five 12-step recovery meetings or
6 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support
7 group as approved and directed by the Board. If a nurse support group is not available,
8 an additional 12-step meeting or equivalent shall be added. Respondent shall submit
9 dated and signed documentation confirming such attendance to the Board during the
10 entire period of probation. Respondent shall continue with the recovery plan
11 recommended by the treatment/rehabilitation program or a licensed mental health
12 examiner and/or other ongoing recovery groups.

13 **(B) Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
14 completely abstain from the possession, injection or consumption by any route of all
15 psychotropic (mood-altering) drugs, including alcohol, except when the same are ordered
16 by a health care professional legally authorized to do so and are part of documented
17 medical treatment. Respondent shall have sent to the Board, in writing and within
18 fourteen (14) days, by the prescribing physician or dentist, a report identifying the
19 medication, dosage, the date the medication was prescribed, the respondent's prognosis,
20 the date the medication will no longer be required, and the effect on the recovery plan, if
21 appropriate.

22 Respondent shall identify for the Board a single physician, nurse practitioner or
23 physician assistant who shall be aware of respondent's history of substance abuse and
24 will coordinate and monitor any prescriptions for respondent for dangerous drugs,
25 controlled substances or mood-altering drugs. The coordinating physician, nurse
26 practitioner, or physician assistant shall report to the Board on a quarterly basis
27 respondent's compliance with this condition. If any substances considered addictive have
28 been prescribed, the report shall identify a program for the time limited use of any such

1 substances.

2 The Board may require the single coordinating physician, nurse practitioner, or
3 physician assistant to be a specialist in addictive medicine, or to consult with a specialist
4 in addictive medicine.

5 (C) **Submit to Tests and Samples.** Respondent, at his expense, shall participate in a
6 random, biological fluid testing or a drug screening program which the Board approves.
7 The length of time and frequency will be subject to approval by the Board. The
8 respondent is responsible for keeping the Board informed of respondent's current
9 telephone number at all times. Respondent shall also ensure that messages may be left at
10 the telephone number when he is not available and ensure that reports are submitted
11 directly by the testing agency to the Board, as directed. Any confirmed positive finding
12 shall be reported immediately to the Board by the program and the respondent shall be
13 considered in violation of probation.

14 In addition, respondent, at any time during the period of probation, shall fully
15 cooperate with the Board or any of its representatives, and shall, when requested, submit
16 to such tests and samples as the Board or its representatives may require for the detection
17 of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

18 If respondent has a positive drug screen for any substance not legally authorized
19 and not reported to the coordinating physician, nurse practitioner, or physician assistant,
20 and the Board files a petition to revoke probation or an accusation, the Board may suspend
21 respondent from practice pending the final decision on the petition to revoke probation or
22 the accusation.

23 (D) **Therapy or Counseling Program.** Respondent, at his expense, shall participate
24 in an on-going counseling program until such time as the Board releases him from this
25 requirement and only upon the recommendation of the counselor. Written progress
26 reports from the counselor will be required at various intervals.


27 16. **Nursing Refresher Course** - In addition to the "Complete a Nursing
28 Course" requirement (#11 above), Respondent agrees to the following condition prior to

1 resuming practice: Respondent shall enroll in and successfully complete a refresher course or
2 equivalent set of courses as approved by representatives of the Board. The Respondent is
3 suspended from practice at least for 12 months and until the required course work is successfully
4 completed, but may use his license for the limited purpose of completing clinical requirements of
5 the required coursework.

6
7 ACCEPTANCE

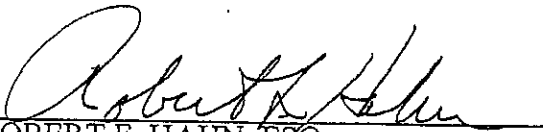
8 I have carefully read the above Stipulated Settlement and Disciplinary Order and
9 have fully discussed it with my attorney, Robert F. Hahn, Esq.. I understand the stipulation and
10 the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement
11 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Board of Registered Nursing.

13 DATED: 9/6/02.

14
15 
16 BRIAN ANDREW REVHEIM
Respondent
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28

1 I have read and fully discussed with Respondent Brian Andrew Revheim the
2 terms and conditions and other matters contained in the above Stipulated Settlement and
3 Disciplinary Order. I approve its form and content.

4 DATED: 9-4-02.

5
6 
7 ROBERT F. HAHN, ESQ.
Attorney for Respondent

8
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
12 Affairs.

13
14 DATED: 12/26/02.

15 BILL LOCKYER, Attorney General
16 of the State of California

17 
18 HANNAH HIRSCH ROSE
19 Deputy Attorney General

20 Attorneys for Complainant
21
22
23
24
25
26
27

Exhibit A

Accusation No. 2001-198

1 BILL LOCKYER, Attorney General
of the State of California
2 HANNAH HIRSCH ROSE, State Bar No. 56276
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, California 94102
Telephone: (415) 703-5515
5 Facsimile: (415) 703-5480
6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2001-98

12 BRIAN ANDREW REVHEIM
220 Jefferson Street
13 Napa, CA 94559

AMENDED ACCUSATION

14 Registered Nurse License No. 526946

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about September 27, 1996, the Board of Registered Nursing issued
23 Registered Nurse License Number 526946 to Brian Andrew Revheim ("Respondent"). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on February 28, 2002, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing
28

1 ("Board"), under the authority of the following sections of the Business and Professions Code
2 ("Code").

3 4. Section 2750 of the Code states, in pertinent part, that the Board may
4 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
5 reason provided in Article 3 of the Nursing Practice Act.

6 5. Section 2764 of the Code states that the lapsing or suspension of a license
7 by operation of law or by order or decision of the board or a court of law, or the voluntary
8 surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with
9 any investigation of or action or disciplinary proceeding against such license, or to render a
10 decision suspending or revoking such license.

11 6. Section 2761 of the Code states in pertinent part that the board may take
12 disciplinary action against a certified or licensed nurse or deny an application for a certificate or
13 license for any of the following: (a) Unprofessional conduct, which includes, but is not limited
14 to, the following: (1) Incompetence, or gross negligence in carrying out usual certified or
15 licensed nursing functions.

16 7. Title 16, California Code of Regulations section 1442 states that as used in
17 Section 2761 of the code, gross negligence includes an extreme departure from the standard of
18 care which, under similar circumstances, would have ordinarily been exercised by a competent
19 registered nurse. Such an extreme departure means the repeated failure to provide nursing care as
20 required or failure to provide care or to exercise ordinary precaution in a single situation which
21 the nurse knew, or should have known, could have jeopardized the client's health or life.

22 8. Section 125.3 of the Code states, in pertinent part, that a Board may
23 request the administrative law judge to direct a licensee found to have committed a violation or
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
25 and enforcement of the case.

26 FIRST CAUSE FOR DISCIPLINARY ACTION

27 9. Respondent is subject to disciplinary action under Code section 2761(a) on
28 the grounds of unprofessional conduct in that, while employed as a Registered Nurse in the

1 Home Care Services Department of Queen of the Valley Hospital in Napa, California, respondent
2 used alcoholic beverages in a manner dangerous or injurious to himself, any other person, or the
3 public or to the extent that such use impaired his ability to conduct with safety to the public the
4 practice or registered nursing, in that respondent reported for work or was on duty with the smell
5 of alcohol on his breath on March 25, 1997, October 17, 1997, February 6, 1998, June 12, 1998,
6 July 2, 1998 and July 15, 1998.

7 SECOND CAUSE FOR DISCIPLINARY ACTION

8 10. Respondent is subject to disciplinary action under Code section 2762(b)
9 on the grounds of unprofessional conduct for the reasons set forth in paragraph 9 above.

10 THIRD CAUSE FOR DISCIPLINARY ACTION

11 11. Respondent is subject to disciplinary action under Code section 2761(a)(1)
12 on the grounds of unprofessional conduct and gross negligence in that while employed as a
13 registered nurse in the Home Care Services Department at Queen of the Valley Hospital in Napa,
14 California between June 29, 1998 and July 20, 1998 respondent was repeatedly negligent in the
15 practice of registered nursing. The circumstances are as follows:

16 a. On or about June 29, 1998 and July 6, 7, 8 and 16, 1998 respondent missed
17 prescribed patient home visits.

18 b. On or about July 14, 1998 respondent failed to appropriately assess the needs
19 and condition of a home care patient assigned to his care

20 c. On or about July 6, 1998 respondent failed to accurately plan for and schedule
21 needed patient care activities for a patient assigned to his care.

22 d. On or about July 14, 1998 respondent incorrectly and improperly
23 implemented medication and other prescribed treatment orders for a patient in his care when he
24 ordered and administered anticonvulsive medication instead of the correct antihypertensive agent
25 prescribed by the physician. This resulted in a temporary but reversible central nervous system
26 depression in the patient.

27 e. On or about July 4 and 6, 1998 respondent failed to provide described patient
28 teaching for surgical dressing change and wound care for a patient in his care.

1 f. On or about July 6, 8 and 14, 1998 respondent failed to document or
2 communicate prescribed admission, visit and treatment orders for patients in his care resulting in
3 delays in patient treatment and/or follow-up care.

4
5 PRAYER

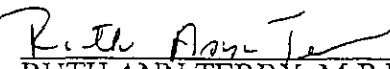
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

8 1. Revoking or suspending Registered Nurse License Number 526946, issued
9 to Brian Andrew Revheim;

10 2. Ordering Brian Andrew Revheim to pay the Board of Registered Nursing
11 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3;

13 3. Taking such other and further action as deemed necessary and proper.

14
15 DATED: 8/29/01

16
17
18 
19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant
25
26

1 BILL LOCKYER, Attorney General
of the State of California
2 HANNAH HIRSCH ROSE, State Bar No. 56276
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, California 94102
Telephone: (415) 703-5515
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
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9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

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Case No. 2001-198

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220 Jefferson Street
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A C C U S A T I O N

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15 Respondent.

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1
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9 Professions Code section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

11
12 DATED: 1/10/01

13
14
15 Ruth Ann Terry
16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California
21 Complainant

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